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10 Attorneys for Plaintiff  
11 SHEILA BABOT

12 THE UNITED STATES DISTRICT COURT FOR THE  
13 NORTHERN DISTRICT OF CALIFORNIA

14 SHEILA BABOT,

15 PLAINTIFF,

16 vs.

17 EQUILON ENTERPRISES LLC DBA  
18 SHELL OIL PRODUCTS US,

19 DEFENDANT.

20 } Case No.:

21 } **COMPLAINT FOR DAMAGES**  
22 } **DEMAND FOR JURY TRIAL**

23  
24 COMES NOW PLAINTIFF SHEILA BABOT for causes of action, and  
25 alleges as follows:

## I. NATURE OF THE CASE

1. This action is brought by PLAINTIFF SHEILA BABOT ("BABOT" or "PLAINTIFF"), a former employee of DEFENDANT EQUILON ENTERPRISES LLC DBA SHELL OIL PRODUCTS US ("SHELL" or "DEFENDANT"), for sex-based harassment, sex discrimination, failure to take reasonable steps to prevent discrimination and harassment, and retaliation in violation of California's Fair Employment and Housing Act ("FEHA") as well as retaliation in violation of California's Labor Code and the public policy of the state of California.

9        2. BABOT worked at SHELL as a refinery process operator. During  
10      her tenure, she was subjected to a male-dominated, sexist work  
11      environment, and discriminated against and harassed because of her gender.  
12      BABOT observed male employees watching pornography on their phones and  
13      laptops. Female employees were told to stay inside and cook for the male  
14      employees. BABOT was told that she should "send us pictures of her tits" and  
15      "give us all blow jobs." She was told that, if anything dripped on her, she  
16      would have to shower naked in front of her co-workers, which was not true.

17       3. BABOT's supervisor observed this sexist behavior but did nothing  
18 to stop it or correct the situation, so it continued. On or around October 15,  
19 2016, BABOT reported her concerns about this sexist behavior and hostile  
20 work environment to her supervisor, who said he could not do anything about  
21 it. Less than two weeks later, SHELL terminated BABOT's employment,  
22 despite the fact that she performed well at all times.

## **II. PARTIES**

24       4. At all relevant times herein, PLAINTIFF worked for SHELL in  
25 Contra Costa County in the State of California. PLAINTIFF resides in  
26 California.

27 | //

28 | //

1       5. SHELL is a Delaware corporation, with its principal place of  
2 business in Houston, Texas. At all relevant times herein, SHELL was  
3 PLAINTIFF's employer.

4       6. During all relevant time periods, SHELL had and continues to  
5 have 5 or more employees and, as such, is an "employer" within the meaning  
6 of FEHA.

7       7. Upon information and belief, the individuals whose actions are  
8 complained of herein are and/or were agents of SHELL at all relevant times  
9 and, for all purposes herein, acted within the course and scope of their  
10 employment with SHELL such that their actions and inactions are attributable  
11 to SHELL.

### 12                   **III. JURISDICTION AND VENUE**

13       8. This Court has original jurisdiction over this action under 28  
14 U.S.C. § 1332, in that it is a civil action between citizens of different states  
15 in which the matter in controversy exceeds, exclusive of interest and costs,  
16 seventy-five thousand dollars.

17       9. This suit is brought in the United States District Court of the  
18 Northern District of California. Venue is proper in this district pursuant to  
19 FEHA, Cal. Gov. Code § 12965(b), as PLAINTIFF worked and the unlawful  
20 employment practices alleged herein were committed in Contra Costa  
21 County, which is within the Northern District of California.

### 22                   **IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

23       10. BABOT has complied with all conditions precedent to jurisdiction  
24 under FEHA. On or about October 18, 2017, within the statutory period,  
25 BABOT filed a charge of employment discrimination with the Department of  
26 Fair Employment and Housing. BABOT received a notice of right to sue on  
27 that date. Therefore, all administrative prerequisites have been met.

28       ///

## 1 V. FACTUAL ALLEGATIONS

2 11. BABOT began working for SHELL on January 4, 2016 as a refinery  
3 process operator. She was part of a new hire class of 22 people, 4 of whom  
4 were women.

5 12. BABOT performed well during training. According to her  
6 performance reviews, BABOT "display[ed] a good understanding of safety  
7 rules and regulations from her years in the military," was "very attentive and  
8 ask[ed] questions when needed," had a "learners attitude," and was a "good  
9 team player." BABOT's supervisor remarked that by the end of March 2016,  
10 BABOT had completed her training tasks with limited supervision and was  
11 performing "above expectation."

12 13. In April of 2016, as her classroom-based training was drawing to  
13 a close, BABOT was to complete a required walk-through, in which she (as  
14 well as the other trainees) walked through the plant with the department  
15 manager, answering questions about the refinery's systems and operations.  
16 During the walk through, a supervisor told BABOT that she did a good job  
17 overall and performed "really well" on "Regen," a process by which an  
18 operator exchanges and cleans the catalysts inside each reactor.

19 14. A few days later, BABOT took a final written test, on which she  
20 also scored well.

21 15. After BABOT completed the final walk-through and the written  
22 test, she, like all new hires, had to spend several days working directly with  
23 a process operator in order to be considered qualified. BABOT completed her  
24 training with the qualified operators, each of whom signed off on her parallel  
25 training checklist, making her a qualified operator.

26 16. Thereafter, BABOT was assigned to the distilling and  
27 hydroprocessing (D&H) unit, where she reported to team leader Buster  
28 Metcalf.

1       17. Throughout her employment at SHELL, BABOT was subjected to  
2 a male-dominated, sexist, hostile work environment.

3       18. BABOT observed male employees watching pornography on their  
4 phones and laptops almost every morning when she reported to work. Female  
5 employees were told to stay inside the unit and cook for the male employees.  
6 During the spring of 2016, Mr. Metcalf told BABOT to order a new coffee  
7 machine for the kitchen, which was not a part of her job responsibilities.  
8 BABOT did not observe Mr. Metcalf assigning similar tasks to male employees.  
9 BABOT was also told that male employees in the D&H unit would have get  
10 togethers outside of work, such as pizza parties and golfing, but BABOT was  
11 never invited to these activities. BABOT often ate lunch in a separate room  
12 or in the women's bathroom to avoid the sexist environment at SHELL.

13       19. BABOT worked hard during the training period and was a very  
14 safety-conscious employee. In contrast, her male co-workers often slept on  
15 the job or socialized in the blast resistant module trailer, while she worked  
16 outside on the unit. BABOT's manager showed her a video of himself and  
17 other male operators horsing around with each other, racing bicycles around  
18 the unit, which was a safety hazard. A male operator was nicknamed "life  
19 alert" because he often made mistakes, was late to work, or fell asleep in the  
20 unit. He even wrote in his shift report that he "didn't do shit."

21       20. BABOT was also subjected to demeaning, sexist comments by her  
22 coworker, Rick Duff. During the training period, Mr. Duff denigrated BABOT  
23 and other female employees every day, telling them they didn't know what  
24 they were doing and commenting on their appearance. In April of 2016, Mr.  
25 Duff told BABOT that if anything drips on her, she was required to take off  
26 her clothes and go into the safety shower naked in front of her coworkers,  
27 which was not true. This comment was humiliating and offensive to BABOT.  
28 BABOT heard that Mr. Duff made statements about her in the locker room,

1 such as "tell Sheila to send us pictures of her tits" and "is Sheila going to give  
2 us all massages when she comes to team 2?" and "too bad Sheila's married,  
3 maybe she'd give us all blow jobs." Mr. Duff made vulgar remarks about other  
4 female operators' "tits" and told a female operator that it "Looks like your bra  
5 is too tight." Mr. Duff also made comments over the radio about his penis  
6 size on a weekly basis, which made BABOT uncomfortable. Mr. Duff wrote  
7 "Rick's Sausage Shack" in large permanent marker on a storage shed.  
8 Employees and managers frequently accessed this shed, as it contained  
9 important refinery tools and equipment. At the time of BABOT's termination,  
10 "Rick's Sausage Shack" was still displayed on the shed.

11       21. Throughout the summer of 2016, Elzen Wilson was BABOT's  
12 supervisor. Mr. Wilson observed Mr. Duff's inappropriate behavior toward  
13 women and overheard many of his vulgar comments. On or around October  
14 15, 2016, BABOT asked Mr. Wilson why Mr. Duff was able to set the tone and  
15 treat women the way he does. Mr. Wilson responded that he didn't know, but  
16 that his hands were tied and he could not do anything about it.

17       22. Shortly thereafter, on October 28, 2016, SHELL terminated  
18 BABOT's employment, allegedly for "unsatisfactory performance during the  
19 probationary period."

20       23. SHELL engaged in a pattern and practice of discrimination. Upon  
21 information and belief, female refinery process operators were less likely than  
22 male refinery process operators to pass probation.

23       24. DEFENDANT's actions were undertaken for improper purposes as  
24 alleged above and were willful, oppressive and in conscious disregard of  
25 BABOT's rights, and were designed and intended to cause and did, in fact,  
26 cause and continue to cause BABOT to suffer severe emotional distress, pain  
27 and suffering, and substantial economic damage and, therefore, justify the  
28 awarding of exemplary and punitive damages.

## **VI. CAUSES OF ACTION**

## **FIRST CAUSE OF ACTION**

### **(Harassment Because of Sex and/or Gender in Violation of FEHA)**

25. PLAINTIFF re-alleges and incorporates by reference each paragraph previously alleged in the Complaint as if fully set forth herein.

26. DEFENDANT is an employer within the meaning of FEHA.

27. PLAINTIFF was an employee of DEFENDANT.

28. PLAINTIFF was subjected to unwanted harassing conduct and a hostile work environment because of her sex and/or gender.

29. The harassing conduct was severe or pervasive.

30. A reasonable woman in PLAINTIFF's circumstances would have considered the work environment to be hostile or abusive.

31. PLAINTIFF considered the work environment to be hostile or abusive.

32. DEFENDANT is liable for the harassment because a supervisor with actual or reasonably perceived authority over PLAINTIFF engaged in the conduct and/or DEFENDANT, or its agents or supervisors, knew or should have known of the conduct and failed to take immediate and corrective action.

33. PLAINTIFF was harmed.

34. The harassing conduct was a substantial factor in causing PLAINTIFF harm.

## **SECOND CAUSE OF ACTION**

## **(Failure to Prevent Harassment and Discrimination)**

35. PLAINTIFF re-alleges and incorporates by reference each paragraph previously alleged in the Complaint as if fully set forth herein.

36. DEFENDANT is an employer within the meaning of FEHA.

37. PLAINTIFF was an employee of the DEFENDANT.

1       38. PLAINTIFF was subject to discrimination, harassment, and a  
2 hostile work environment because of her sex and/or gender and/or in  
3 retaliation for opposing the DEFENDANT's unlawful discriminatory practices.

4       39. DEFENDANT failed to take reasonable steps necessary to prevent  
5 the discrimination, harassment, and retaliation.

6       40. PLAINTIFF was harmed.

7       41. DEFENDANT's failure to take reasonable steps to prevent the  
8 discrimination, harassment, and retaliation was a substantial factor in causing  
9 PLAINTIFF's harm.

10       **THIRD CAUSE OF ACTION**

11       **(Sex Discrimination in Violation of FEHA)**

12       42. PLAINTIFF re-alleges and incorporates by reference each  
13 paragraph previously alleged in the Complaint as if fully set forth herein.

14       43. DEFENDANT is an employer within the meaning of FEHA.

15       44. PLAINTIFF was an employee of DEFENDANT.

16       45. DEFENDANT harassed PLAINTIFF and terminated her.

17       46. PLAINTIFF's sex was a substantial motivating reason for the  
18 DEFENDANT's adverse employment actions.

19       47. PLAINTIFF was harmed.

20       48. DEFENDANT's conduct was a substantial factor in causing  
21 PLAINTIFF's harm.

22       **FOURTH CAUSE OF ACTION**

23       **(Retaliation in Violation of FEHA)**

24       49. PLAINTIFF re-alleges and incorporates by reference each  
25 paragraph previously alleged in the Complaint as if fully set forth herein.

26       50. DEFENDANT is an employer within the meaning of FEHA.

27       51. PLAINTIFF was an employee of DEFENDANT.

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1       52. PLAINTIFF engaged in protected activity when she complained of  
2 sexual harassment, a hostile work environment, and sex discrimination.

3       53. DEFENDANT terminated PLAINTIFF.

4       54. PLAINTIFF's complaint of sexual harassment, a hostile work  
5 environment, and sex discrimination was a substantial motivating reason for  
6 the DEFENDANT's adverse employment action.

7       55. PLAINTIFF was harmed.

8       56. DEFENDANT's conduct was a substantial factor in causing  
9 PLAINTIFF harm.

10       **FIFTH CAUSE OF ACTION**

11       **(Violation of Labor Code § 1102.5)**

12       57. PLAINTIFF re-alleges and incorporates by reference each  
13 paragraph previously alleged in the Complaint as if fully set forth herein.

14       58. PLAINTIFF was an employee of DEFENDANT.

15       59. PLAINTIFF disclosed information that she had reasonable cause  
16 to believe disclosed a violation of, or noncompliance with, federal, state, and  
17 local statutes and regulations to a person with authority over her.

18       60. PLAINTIFF refused to work under conditions that would result in  
19 a violation or noncompliance with a state or federal statute or regulation.

20       61. DEFENDANT discharged PLAINTIFF.

21       62. PLAINTIFF's disclosure of information and/or PLAINTIFF's refusal  
22 to work under conditions that would result in violation or noncompliance with  
23 applicable laws or regulations was a motivating reason for the discharge or  
24 other adverse actions.

25       63. PLAINTIFF was harmed.

26       64. DEFENDANT's conduct was a substantial factor in causing  
27 PLAINTIFF harm.

28       ///

## **SIXTH CAUSE OF ACTION**

## **(Wrongful Termination in Violation of Public Policy)**

65. PLAINTIFF re-alleges and incorporates by reference each paragraph previously alleged in the Complaint as if fully set forth herein.

66. PLAINTIFF was an employee of DEFENDANT.

67. DEFENDANT terminated PLAINTIFF.

68. Said termination violated fundamental public policies as set forth in FEHA and the California Labor Code, including but not limited to Labor Code §§ 1102.5 and 6300 et seq.

69. The termination harmed PLAINTIFF.

## **SEVENTH CAUSE OF ACTION**

## **(Intentional Infliction of Emotional Distress)**

70. DEFENDANT's conduct was outrageous.

71. DEFENDANT intended to cause PLAINTIFF emotional distress or acted with reckless disregard of the probability that PLAINTIFF would suffer emotional distress.

72. PLAINTIFF suffered severe emotional distress.

73. DEFENDANT's conduct was a substantial factor in causing PLAINTIFF's severe emotional distress.

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## **VII. PRAYER FOR RELIEF**

WHEREFORE, PLAINTIFF seeks, to the extent allowed by law, economic damages, non-economic damages for pain, suffering and emotional distress, exemplary damages, injunctive relief, legal interest, statutory attorney's fees, expert witness fees, and costs of suit. PLAINTIFF also seeks such other relief as the court deems just.

DATED: July 27, 2018

MINNIS & SMALLETS LLP

by: Sonya Smallets  
SONYA L. SMALLETS, ESQ.  
Attorneys for Plaintiff  
SHEILA BABOT

## JURY TRIAL DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, PLAINTIFF demands a trial by jury in this action of all issues triable.

DATED: July 27, 2018

MINNIS & SMALLETS LLP

by: Sonya Smallets  
SONYA L. SMALLETS, ESQ.  
Attorneys for Plaintiff  
SHEILA BABOT

## CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

Babot, Sheila

(b) County of Residence of First Listed Plaintiff Solano  
(EXCEPT IN U.S. PLAINTIFF CASES)(c) Attorneys (Firm Name, Address, and Telephone Number)  
Sonya L. Smalleets, Esq., Minnis & Smalleets LLP  
369 Pine St., Ste. 500, S.F., CA 94104 (415) 551-0885

## DEFENDANTS

Equilon Enterprises LLC DBA Shell Oil Products US

County of Residence of First Listed Defendant  
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff  3 Federal Question  
(U.S. Government Not a Party)

2 U.S. Government Defendant  4 Diversity  
(Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

PTF	DEF	PTF	DEF
Citizen of This State <input checked="" type="checkbox"/>	1 <input type="checkbox"/>	Incorporated or Principal Place of Business In This State <input type="checkbox"/>	4 <input type="checkbox"/>
Citizen of Another State <input type="checkbox"/>	2 <input type="checkbox"/>	Incorporated and Principal Place of Business In Another State <input type="checkbox"/>	5 <input checked="" type="checkbox"/>
Citizen or Subject of a Foreign Country <input type="checkbox"/>	3 <input type="checkbox"/>	Foreign Nation <input type="checkbox"/>	6 <input type="checkbox"/>

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
110 Insurance	<b>PERSONAL INJURY</b>	<b>PERSONAL INJURY</b>	625 Drug Related Seizure of Property 21 USC § 881	375 False Claims Act
120 Marine	310 Airplane	365 Personal Injury – Product Liability	690 Other	376 Qui Tam (31 USC § 3729(a))
130 Miller Act	315 Airplane Product Liability	367 Health Care/ Pharmaceutical Personal Injury Product Liability	<b>LABOR</b>	400 State Reapportionment
140 Negotiable Instrument	320 Assault, Libel & Slander	330 Federal Employers' Liability	710 Fair Labor Standards Act	410 Antitrust
150 Recovery of Overpayment Of Veteran's Benefits	340 Marine	345 Marine Product Liability	720 Labor/Management Relations	430 Banks and Banking
151 Medicare Act	350 Motor Vehicle	355 Motor Vehicle Product Liability	740 Railway Labor Act	450 Commerce
152 Recovery of Defaulted Student Loans (Excludes Veterans)	355 Motor Vehicle Product Liability	370 Other Fraud	751 Family and Medical Leave Act	460 Deportation
153 Recovery of Overpayment of Veteran's Benefits	360 Other Personal Injury	371 Truth in Lending	790 Other Labor Litigation	470 Racketeer Influenced & Corrupt Organizations
160 Stockholders' Suits	362 Personal Injury -Medical Malpractice	380 Other Personal Property Damage	791 Employee Retirement Income Security Act	480 Consumer Credit
190 Other Contract		385 Property Damage Product Liability	<b>IMMIGRATION</b>	490 Cable/Sat TV
195 Contract Product Liability	<b>CIVIL RIGHTS</b>		462 Naturalization Application	850 Securities/Commodities/ Exchange
196 Franchise	440 Other Civil Rights	<b>HABEAS CORPUS</b>	465 Other Immigration Actions	890 Other Statutory Actions
<b>REAL PROPERTY</b>	441 Voting	463 Alien Detainee		891 Agricultural Acts
210 Land Condemnation	<input checked="" type="checkbox"/> 442 Employment	510 Motions to Vacate Sentence		893 Environmental Matters
220 Foreclosure	443 Housing/ Accommodations	530 General		895 Freedom of Information Act
230 Rent Lease & Ejectment	445 Amer. w/Disabilities– Employment	535 Death Penalty		896 Arbitration
240 Torts to Land	446 Amer. w/Disabilities–Other	<b>OTHER</b>		899 Administrative Procedure Act/Review or Appeal of Agency Decision
245 Tort Product Liability	448 Education	540 Mandamus & Other		950 Constitutionality of State Statutes
290 All Other Real Property		550 Civil Rights		
		555 Prison Condition		
		560 Civil Detainee– Conditions of Confinement		

## V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding  2 Removed from State Court  3 Remanded from Appellate Court  4 Reinstated or Reopened  5 Transferred from Another District (specify)  6 Multidistrict Litigation–Transfer  8 Multidistrict Litigation–Direct File

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. 1332

Brief description of cause:

Sex discrimination, sex harassment, and retaliation in employment.

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION  
UNDER RULE 23, Fed. R. Civ. P.

## DEMAND \$

CHECK YES only if demanded in complaint:  
**JURY DEMAND:**  Yes  No

## VIII. RELATED CASE(S), IF ANY (See instructions):

JUDGE

DOCKET NUMBER

## IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

(Place an "X" in One Box Only)

 SAN FRANCISCO/OAKLAND

SAN JOSE

EUREKA-MCKINLEYVILLE